

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORIGINAL

Before The Honorable JEFFREY S. WHITE, Judge

UNITED STATES OF AMERICA,)	Status Conference
)	
Plaintiff,)	
)	
vs.)	NO. CR 17-00462 JSW
)	
JOB TORRES HERNANDEZ,)	Pages 1 - 9
)	
Defendant.)	Oakland, California
)	Tuesday, November 7, 2017

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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For Defendant: Garcia, Schnayerson & Thompson
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Reported By: Raynee H. Mercado
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RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR (510) 451-7530

Tuesday, November 7, 2017

1:25 p.m.

PROCEDING S

THE CLERK: Calling case No. CR-17-462, United States
versus Job Torres Hernandez.

Counsel, please step forward to the podiums and state your appearances.

MS. KREUZKAMP: Good afternoon, Your Honor. Karen Kreuzkamp for the United States.

THE COURT: Afternoon. Is this your first appearance in court?

MS. KREUZKAMP: It is, Your Honor.

THE COURT: Welcome nice to have you in our court.

MS. KREUZKAMP: Thank you.

MR. GARCIA: Good afternoon, Your Honor. Jesse Garcia.

THE COURT: Good afternoon.

MR. GARCIA: I'm appearing with Mr. Torres Hernandez. He's presently out of custody.

THE COURT: How are you, sir?

THE DEFENDANT: Good.

THE COURT: Very good.

So first order of business, would you mind explaining, somebody, whoever drafted the stipulation -- seemed very confusing to me whether it was requesting a continuance or -- it seemed -- I've seen -- we've seen this in other cases, it's

1 confusing, so what were you intending to convey in your
2 stipulation?

3 **MS. KREUZKAMP:** In the stipulation -- so preparing
4 for this case and for today's court appearance, I'd gone
5 through the docket, and I saw that at the October 3rd
6 appearance, that the court had instructed that a stipulation
7 proposed order be filed regarding the exclusion of time.

8 And this is a standard format my office tends to use. And
9 I know no such stipulation and proposed order had been filed,
10 and so I filed this one --

11 **THE COURT:** But this is a little -- the part that's
12 confusing to me is that -- it's the caption, order and
13 stipulation to continue.

14 **MS. KREUZKAMP:** I see that, Your Honor. And I can
15 refile something that just says --

16 **THE COURT:** Well, yeah, please do. And just be a
17 little bit more careful in reading -- 'cause we didn't know --
18 a continuance is one thing and requires certain grounds. And
19 it looked like this had just gotten -- it was on a form, and
20 it was a little confusing to the court. So just be more
21 careful please and -- you know, it's fine to use forms, but we
22 need to read them before they get filed, okay?

23 **MS. KREUZKAMP:** Yes, Your Honor.

24 **THE COURT:** All right. Thank you.

25 **MS. KREUZKAMP:** I apologize.

1 **THE COURT:** All right.

2 So moving to the case generally, what is the status and
3 what are the parties requesting in this case involving alleged
4 harboring of illegal aliens?

5 **MR. GARCIA:** May I speak to that?

6 **THE COURT:** Yes, please.

7 **MR. GARCIA:** Your Honor, at the -- on the occasion of
8 our previous appearance in this -- on this matter, there were
9 three CD's that were discovered to us containing approximately
10 3500 pages, I think. Those CD's were corrupted.

11 In my conversation with Ms. Kreuzkamp, I advised her of
12 that. So she's in the process of rediscovering that
13 discovery.

14 In addition to that, there is additional discovery that in
15 our discussions during the course of this week leading up to
16 today's court date, she advised me that they're preparing.

17 And finally, there are a number of computers, computer
18 hard drives that the agents are still going through in this
19 case, so discovery at this juncture is still ongoing.

20 **THE COURT:** All right. How much time do you think --

21 I guess I should ask the government first, how long do you
22 think it will take to, using counsel's term "rediscover" or
23 reconstitute these CD's?

24 **MS. KREUZKAMP:** Those I -- I had hoped to have today
25 but -- but do not. And so my expectation is that I'll be

1 sending those discs to the defense this week, along with the
2 additional discovery that I received from the agents last
3 Friday.

4 The -- the bigger question I think right now is -- in the
5 execution of search warrant I think about 45 electronic
6 devices were seized that the agents have imaged and are
7 prepared to return, the computers and some thumb drives.
8 There's an extension of the warrant granted for another 60
9 days as to the cell phones, which I think there are eight.

10 And so as -- as the agents are making their way through
11 those devices, we'll be producing documents relevant to the
12 case but also just that it's going to take time to get through
13 all the electronics.

14 **THE COURT:** About how much time 'cause I want to set
15 a date? I want to give the defense a fair chance to get and
16 receive and -- and learn the information so they can be -- so
17 the defense can be effective in representation.

18 So I don't want to set any unrealistic dates. On the
19 other hand, I don't want to put this off indefinitely.

20 **MS. KREUZKAMP:** I appreciate that, Your Honor. The
21 extension on the warrant for the cell phones says that the
22 agents have until the end of January to image the phones. And
23 at that point, they'll be -- they'll be able to go through the
24 phones.

25 The agents are prioritizing certain devices, and so I'm

1 hopeful within the coming weeks that we'll be making big
2 progress. But in terms of having the -- it all complete, it
3 is a slow process, unfortunately.

4 **THE COURT:** Well, it sounds to me, Counsel, that we
5 should probably put this off till February as a -- if that's
6 okay with you and your client.

7 **MR. GARCIA:** It would accommodate me -- my request --
8 I think our joint request was that it go out to mid-January,
9 but February I think makes a lot of sense given the -- the
10 breadth of discovery that is yet to be accessed through the
11 electronic devices.

12 **THE COURT:** Right. With the admonition that I'm
13 going to expect substantial progress. I'm giving you extra
14 time. I don't want to hear in February, oh, it's another six
15 or eight weeks, 'cause that's -- that wouldn't be acceptable
16 so you need to tell the agent that the court expects
17 substantially all of the -- the imaging and disclosure to the
18 defense to have occurred. I'm not ordering that, but I'm
19 saying that that's my expectation.

20 Is that a fair one?

21 **MS. KREUZKAMP:** Yes. And I will communicate that.

22 **THE COURT:** It gives you leverage with the agents
23 well so they can give it some priority.

24 And let me ask -- let me ask counsel if -- what your
25 position is with respect, Mr. Garcia, to the Speedy Trial Act

1 during this time period.

2 **MR. GARCIA:** Your Honor, my contention would be that
3 it would be appropriate to exclude time between now and our
4 next court date for effective preparation.

5 **THE COURT:** All right. Do you agree with that?

6 **MS. KREUZKAMP:** Yes, Your Honor.

7 **THE COURT:** All right. Would you mind preparing a
8 properly read and --

9 **MS. KREUZKAMP:** Yes.

10 **THE COURT:** -- stipulation to that effect?

11 **MS. KREUZKAMP:** Yes, Your Honor.

12 **THE COURT:** And order, of course.

13 All right. Very well. Anything else from the government?

14 **MS. KREUZKAMP:** No, Your Honor.

15 **THE COURT:** From the defense?

16 **MR. GARCIA:** Well, there is one other matter, but I
17 think we're going to -- we have a -- the defendant currently
18 has no identification so it's been a little bit difficult for
19 him to move through life without it.

20 And I think we're prepared to enter into a stipulation
21 that would release his passport to my custody. And I would
22 accompany him to Social Security and to DMV and sort of thing
23 so he could reacquire those -- those identification items that
24 would permit him to work and to enter this building.

25 **THE COURT:** All right. Is that acceptable?

1 Are you going to work with Mr. Garcia on that?

2 **MS. KREUZKAMP:** Yes. We spoke briefly before court
3 on that, and I'll work with him.

4 **THE COURT:** Very well. If there's a problem, you can
5 come back to the court, and I will definitely help.

6 Let's set a date, Ms. Ottolini, in February.

7 **THE CLERK:** The latter part of February?

8 **THE COURT:** No, middle.

9 **THE CLERK:** February 13th at 1:00 p.m.

10 **THE COURT:** Is that acceptable to the government?

11 **MS. KREUZKAMP:** Yes, Your Honor.

12 **THE COURT:** Mr. Garcia, is that acceptable to you?

13 **MR. GARCIA:** Yes, Your Honor. I can make that work.

14 **THE COURT:** All right. Very well. Thank you very
15 much.

16 So we'll see you in February, and hopefully at that point,
17 my -- my goal would be at that point, is to set some dates for
18 things like motions or if there are not going to be any
19 pretrial motions, then trial, or whatever. But I do want to
20 move this case along.

21 **MS. KREUZKAMP:** Yes, Your Honor.

22 **THE COURT:** All right. Thank you very much.

23 **MR. GARCIA:** Thank you.

24 **THE COURT:** Thank you very much, Mr. Hernandez.

25 **THE DEFENDANT:** Thank you, Your Honor.

1 **THE COURT:** Thank you.

2 (Proceedings were concluded at 1:32 P.M.)

3 --oo--

6 **CERTIFICATE OF REPORTER**

8 I certify that the foregoing is a correct transcript
9 from the record of proceedings in the above-entitled matter.
10 I further certify that I am neither counsel for, related to,
11 nor employed by any of the parties to the action in which this
12 hearing was taken, and further that I am not financially nor
13 otherwise interested in the outcome of the action.

14 
15 _____
16 Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

17 Friday, November 1, 2019